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PEERLESS INSURANCE COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1777 LAFAYETTE PARTNERS, a
California Limited Partnership, ERIC
WILLIS, an individual, and TOM BURNS,
an individual,

Plaintiff,

v.

GOLDEN EAGLE INSURANCE
COMPANY, PEERLESS INSURANCE
COMPANY, and DOES 1 to 10,

Defendants.

CASE NO 5:10-CV-01863-RMW

**STIPULATION AND [XXXXXXXXXXXX] ORDER
FOR LEAVE TO FILE SECOND AMENDED
COMPLAINT WITH ADDITIONAL
PLAINTIFFS AND FOR ADDITIONAL TIME
TO HEAR CROSS-MOTIONS FOR
SUMMARY JUDGMENT**

WHEREAS, on February 11, 2011, Defendant PEERLESS INSURANCE COMPANY

("Peerless") denied the claim of Steven Wheelwright, an individual partner of 1777 Lafayette
Partners, in which he tendered his defense in this action;

1 **WHEREAS**, Plaintiffs 1777 LAFAYETTE PARTNERS, TOM BURNS and ERIC
2 WILLIS ("Plaintiffs") now seek to file a Second Amended Complaint adding Mr. Wheelwright as
3 a plaintiff and to add a cause of action for declaratory relief as to all plaintiffs,

4 **WHEREAS**, Defendant Peerless Insurance Company will be required to file an answer to
5 the Second Amended Complaint,

6 **WHEREAS**, this Court's current Case Management Order dated November 22, 2010
7 requires that cross motions for summary judgment be heard on April 1, 2011,

8 **WHEREAS**, pursuant to the Federal Rules of Civil Procedure and Local Rules of the
9 Northern District of California, a summary judgment scheduled to be heard on April 1, 2011 must
10 be filed no later than February 25, 2011, and given the pending deadline to file cross-motions for
11 summary judgment on February 25, 2011, the motions will be due before the new operative
12 complaint and answer are filed,

13
14 **IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiffs and Peerless
15 by and through their respective counsel, as follows:

16 1. In the above-captioned action, Plaintiffs may file a Second Amended Complaint
17 adding Steven Wheelwright as an additional Plaintiff and a cause of action for declaratory relief,
18 by or before February 28, 2011, a true and correct copy of which is attached hereto.

19 2. Peerless' Answer to the Second Amended Complaint shall be due no later than
20 fourteen days (14) after service of the Second Amended Complaint.

21 3. The hearing date for the cross-motions for summary judgment be continued from
22 April 1, 2011 to April 29, 2011, or a subsequent day convenient to the Court's calendar, and the
23 filing dates for the cross motions reset according to the new hearing date.

24 **IT IS SO STIPULATED.**

25 ///

26 ///

27 ///

Dated: February 17, 2011

MILLER, MORTON, CAILLAT & NEVIS
LLP

By: /s/ Gregory Korbel

PETER V. DESSAU, ESQ.
GREGORY KORBEL, ESQ.
Attorneys for Plaintiff, 1777 LAFAYETTE
PARTNERS

Dated: February 17, 2011

ROPER, MAJESKI, KOHN & BENTLEY

By: /s/ Pamela E. Cogan

PAMELA E. COGAN
STACY M. TUCKER
Attorneys for Defendant, PEERLESS
INSURANCE COMPANY

ORDER

Based on the stipulation filed by the parties and good cause appearing therefor, **IT IS
HEREBY ORDERED** that:

1. Plaintiffs may file a Second Amended Complaint adding Steven Wheelwright as an additional Plaintiff and a cause of action for declaratory relief by or before February 28, 2011.
2. Peerless' Answer to the Second Amended Complaint shall be due no later than fourteen days (14) after service of the Second Amended Complaint.
3. The hearing date for the cross-motions for summary judgment is continued from April 1, 2011 to April 29, 2011 @ 9:00 a.m., and the filing dates for the cross motions reset according to the new hearing date. The Court continues the Case Management Conference to April 29, 2011 @ 10:30 a.m.

Dated: 2/23/11, 2011

By: Ronald M. Whyte

Hon. Ronald M. Whyte
United States District Court, Northern
District of California